

## Agenda Item # 12.B.



STATE AND CONSUMER SERVICES AGENCY • ARNOLD SCHWARZENEGGER, GOVERNOR  
**BOARD OF VOCATIONAL NURSING & PSYCHIATRIC TECHNICIANS**  
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DATE: February 5, 2009

TO: Board Members

FROM: Teresa Bello-Jones  
Executive Officer

SUBJECT: **Statutory Proposal to Amend Business & Professions Code, Sections 2895 and 4548 Relative to the Statutory Fee Ranges**

### Statement of Issues

On December 30, 2008, the Board of Vocational Nursing and Psychiatric Technicians (BVNPT) filed Emergency Regulations with the Office of Administrative Law to implement retroactive fingerprinting of its licensees. The Emergency Regulations also included a fee change to increase the licensing and renewals fees to the **statutory maximums** to ensure that sufficient funds were available to fund this consumer protection mandate.

The BVNPT anticipates that approximately **55,000 licensees** (i.e., 47,786 Licensed Vocational Nurses and 7,165 Psychiatric Technicians) will be required to submit their fingerprint records. This requirement will cause a major workload increase impacting: Reception Services, Mail, Cashiering, the Fingerprint Desk, Renewals, Enforcement Case Reviews and any subsequent Disciplinary Actions. The BVNPT projects about **7,300** of the 55,000 licensees will have RAP sheets that will require review and action by the Enforcement Division. The fingerprint collection and reporting phase will be spread over a two year period starting on April 1, 2009. However, depending upon receipt of the RAP sheet or any Subsequent Arrest Reports from the California Department of Justice and/or the Federal Bureau of Investigation, the impact to the Enforcement Division staff and the costs associated with Attorney General and the Office of Administrative Hearings services will be spread across four fiscal years.

Unfortunately, current budget projections indicate that the ongoing costs associated with retroactive fingerprinting and disciplinary actions may necessitate another fee change proposal in 2010. However, as the licensing and renewal fees will be at the statutory maximum effective July 1, 2009, a statutory fee range amendment is required.

## Justification

Effective January 9, 2009, the Office of Administrative Law approved emergency regulations to increase the licensing and renewal fees to the statutory maximums effective **July 1, 2009** as follows:

<b>Table #1: Fee Categories</b>	<b>VN Program</b>		<b>PT Program</b>	
	<b>Old Fee</b>	<b>New Fee (eff. 7/1/09)*</b>	<b>Old Fee</b>	<b>New Fee (eff. 7/1/09)*</b>
<b>Initial License Fee</b>	\$120	<b>\$150</b>	\$200	<b>\$300</b>
<b>Renewal Fee</b>	\$120	<b>\$150</b>	\$200	<b>\$300</b>
<b>Delinquent Renewal Fee</b>	\$60	<b>\$75</b>	\$100	<b>\$150</b>
*Proposed fees effective 7/1/2009 are at the statutory maximums for initial licenses, biennial renewals and delinquent renewals.				

### Vocational Nursing (VN) Program

Current budget projections indicate that the VN Program's fund reserve will be exhausted by Budget Year 2011/12. The VN Program needs to raise the initial licensing and renewal fees to \$160 every two years. As these fee assessments are beyond the existing "maximum" fee ranges authorized in statute (i.e., \$150 for the VN Program), a statutory fee range change proposal is required. The BVNPT proposes to raise the statutory fee range to \$200 for initial licenses and biennial renewals and the delinquency fees will increase to \$100 maximum. The VN Program must increase its statutory fee ranges as follows:

<b>Table #2: VN Program Revenue Category</b>	<b>Prior Fee Change 1/1/2000</b>	<b>Current Fees 1/1/2007</b>	<b>Fees Effective 7/1/2009*</b>	<b>Proposed Statutory Fee Ranges</b>	<b>Proposed Fees In 2010</b>
1. Exam Applicants	<b>\$75</b>	\$75	\$75	\$75 - \$150	\$75
2. Re-Examination	\$75	\$75	\$75	\$75 - \$150	\$75
3. Interim Permits	\$40	\$40	\$40	\$40 - \$50	\$40
4. Initial Licenses	<b>\$100</b>	<b>\$120</b>	<b>\$150</b>	<del>\$100 - \$150</del> <b>\$100 - \$200</b>	<b>\$160</b>
5. Biennial Renewals	<b>\$100</b>	<b>\$120</b>	<b>\$150</b>	<del>\$100 - \$150</del> <b>\$100 - \$200</b>	<b>\$160</b>
6. Delinquent Renewals	<b>\$50</b>	<b>\$60</b>	<b>\$75</b>	<del>\$50 - \$75</del> <b>\$50 - \$100</b>	<b>\$80</b>
7. Duplicate Licenses	\$25	\$25	\$25	\$25 - \$50	\$25
8. Endorsements	\$75	\$75	\$75	\$75 - \$100	\$75
9. Biennial CE Providers	\$200	\$200	\$200	No Range	\$200
*Proposed fees effective 7/1/2009 are at the statutory maximums for initial licenses, biennial renewals and delinquent renewals.					

Table #3 below briefly summarizes the impact to the VN Program's fund reserves. Pursuant to the Budget Act of 2008 (i.e., in Fiscal Year 2008/09), a General Fund Loan of \$1,000,000 was taken from the VN Program's fund reserves. The General Fund Loan Repayment will occur in FY 2009/10 to ensure sufficient funding is available. Table #3 confirms that the VN Program will have about 1 month in reserve by the end of FY 2011/12 if it increases its initial licensing,

renewal and delinquent renewal fees in 2010. The fund will slowly increase each fiscal year thereafter.

<b>VN Program</b>	<b>2008/09</b>	<b>2009/10*</b>	<b>2010/11</b>	<b>2011/12</b>	<b>2012/13</b>
<b>Table #3: Fund Condition</b>	<b>Months in Reserve</b>				
1. Current Fees – With Fingerprint BCP	4.8	2.8	-1.6	-5.2	-6.9
2. Fee Increase from \$120 to <b>\$150</b> <b>eff. 7/1/2009 with Fingerprint BCP</b>	4.8	4.0	1.2	-0.4	-0.5
3. Fee Increase from \$150 to <b>\$160</b> <b>eff. 7/1/2010 with Fingerprint BCP</b>	4.8	4.0	1.7	0.9	1.4
*Projects a General Fund Loan Repayment in FY 2009/10. Raise fees to statutory maximum effective July 1, 2009. Raise fees to \$160, via regulation, effective July 1, 2010					

### Psychiatric Technician (PT) Program

The PT Program fund reserve projections indicate that about 4 months of operating expense will be available through Budget Year 2012/13. However, given the anticipated costs associated with numerous information technology projects underway by the Department of Consumer Affairs' and the ongoing costs associated with AG and OAH services, it would not be fiscally prudent to leave the PT Program's fees restricted to the statutory maximums. A statutory fee range change is recommended to allow for economic uncertainties.

Accordingly, the PT Program needs to raise the statutory fee range to \$350 for initial licenses and biennial renewals and to \$175 for delinquent renewals as follows:

<b>Table #4: PT Program Revenue Category</b>	<b>Prior Fee Change 1/1/2000</b>	<b>Current Fees 1/1/2007</b>	<b>Fees Effective 7/1/2009*</b>	<b>Proposed Statutory Fee Ranges</b>
1. Exam Applicants	<b>\$100</b>	\$100	\$100	\$100 - \$150
2. Re-Examination	\$100	\$100	\$100	\$100 - \$150
3. Interim Permits	\$20	\$20	\$20	\$20 - \$50
4. Initial Licenses	<b>\$240</b>	<b>\$200</b>	<b>\$300</b>	<del>\$200 - \$300</del> <b>\$200 - \$350</b>
5. Biennial Renewals	<b>\$240</b>	<b>\$200</b>	<b>\$300</b>	<del>\$200 - \$300</del> <b>\$200 - \$350</b>
6. Delinquent Renewals	<b>\$120</b>	<b>\$100</b>	<b>\$150</b>	<del>\$100 - \$150</del> <b>\$100 - \$175</b>
7. Duplicate Licenses	\$20	\$20	\$20	\$20 - \$50
8. Endorsements	\$20	\$20	\$20	\$20 - \$50
9. Biennial CE Providers	\$150	\$150	\$150	\$150 - \$200
10. Blood Withdrawal Cert.	\$20	\$20	\$20	\$20 - \$50

Table #5 below briefly summarizes the impact to the PT Program's fund reserve. Table #5 confirms that the PT Program will have at least 4.9 months in reserve by the end of FY 2011/12. The fund will slowly decrease each fiscal year thereafter. The PT Program needs to increase its statutory maximums to allow for economic uncertainties and to ensure sufficient funding is available in the future.

PT Program	2008/09	2009/10*	2010/11	2011/12	2012/13
Table #5: Fund Condition	Months in Reserve				
1. Current Fees – With Fingerprint BCP	4.2	3.1	-4.3	-9.7	-15.2
2. Fee Increase from \$200 to <b>\$300</b> <b>eff. 7/1/2009 with Fingerprint BCP</b>	4.1	7.1	5.5	4.9	4.1
*Projects a General Fund Loan Repayment in FY 2009/10. Raise fees to statutory maximum effective July 1, 2009.					

The applicable fee language to implement this “statutory” proposal is attached for your information (see Attachment A -- Proposed Statutory Amendments).

The BVNPT is working with the DCA Legislative & Regulatory Review Division and the Senate Business & Professions Committee to include the proposed statutory amendments in the 2009 Department of Consumer Affairs’ Omnibus Bill, if approved by the BVNPT. However, if the Senate Business & Professions Committee declines the BVNPT’s request, another author for this legislative proposal must be secured.

**Recommendation:**

The BVNPT approve the proposed statutory amendments relative to Business & Professions Code, Sections 2895 and 4548, and direct staff to proceed with the legislative process.

Attachment A -- Proposed Statutory Amendments

(1/21/2009)

## **Vocational Nursing Program**

### **Business & Professions Code**

#### **2895. Fee Schedule.**

The amount of the fees prescribed by this chapter in connection with the issuance of licenses under its provisions is that fixed by the following schedule:

(a) The fee to be paid upon the filing of an application shall be in an amount not less than seventy-five dollars (\$75) and may be fixed by the board at an amount no more than one hundred fifty dollars (\$150).

(b) The fee to be paid for taking each examination shall be the actual cost to purchase the examination from a vendor approved by the board.

(c) The fee to be paid for any examination after the first shall be in an amount not less than seventy-five dollars (\$75) and may be fixed by the board at an amount no more than one hundred fifty dollars (\$150).

(d) The biennial renewal fee to be paid upon the filing of an application for renewal shall be in an amount not less than one hundred dollars (\$100) and may be fixed by the board at an amount no more than ~~one hundred fifty dollars (\$150)~~ **two hundred dollars (\$200)**. In addition, an assessment of five dollars (\$5) shall be collected and credited to the Vocational Nurse Education Fund, pursuant to Section 2895.5.

(e) Notwithstanding Section 163.5, the delinquency fee for failure to pay the biennial renewal fee within the prescribed time shall be in an amount not less than fifty dollars (\$50) and may be fixed by the board at not more than 50 percent of the regular renewal fee and in no case more than ~~seventy-five dollars (\$75)~~ **one hundred dollars (\$100)**.

(f) The initial license fee is an amount equal to the biennial renewal fee in effect on the date the application for the license is filed.

(g) The fee to be paid for an interim permit shall be in an amount not less than forty dollars (\$40) and may be fixed by the board at an amount no more than fifty dollars (\$50).

(h) The fee to be paid for a duplicate license shall be in an amount not less than twenty-five dollars (\$25) and may be fixed by the board at an amount no more than fifty dollars (\$50).

(i) The fee to be paid for processing endorsement papers to other states shall be in amount not less than seventy-five dollars (\$75) and may be fixed by the board at an amount no more than one hundred dollars (\$100).

No further fee shall be required for a license or a renewal thereof other than as prescribed by this chapter.

# Psychiatric Technicians Program

## Business & Professions Code

### 4548. Fee Schedule.

The amount of the fees prescribed by this chapter in connection with the issuance of licenses under its provisions shall be according to the following schedule:

(a) The fee to be paid upon the filing of an application shall be in an amount not less than one hundred dollars (\$100), and may be fixed by the board at an amount no more than one hundred fifty dollars (\$150).

(b) The fee to be paid for taking each examination shall be the actual cost to purchase an examination from a vendor approved by the board.

(c) The fee to be paid for any examination after the first shall be in an amount not less than one hundred dollars (\$100), and may be fixed by the board at an amount no more than one hundred fifty dollars (\$150).

(d) The biennial renewal fee to be paid upon the filing of an application for renewal shall be in an amount not less than two hundred dollars (\$200), and may be fixed by the board at an amount no more than ~~three hundred dollars (\$300)~~ **three hundred fifty dollars (\$350)**.

(e) Notwithstanding Section 163.5, the delinquency fee for failure to pay the biennial renewal fee within the prescribed time shall be in an amount not less than one hundred dollars (\$100) and may be fixed by the board at not more than 50 percent of the regular renewal fee and in no case more than ~~one hundred fifty dollars (\$150)~~ **one hundred seventy five dollars (\$175)**.

(f) The initial license fee is an amount equal to the biennial renewal fee in effect on the date the application for the license is filed.

(g) The fee to be paid for an interim permit shall be in an amount no less than twenty dollars (\$20) and may be fixed by the board at an amount no more than fifty dollars (\$50).

(h) The fee to be paid for a duplicate license shall be in an amount not less than twenty dollars (\$20) and may be fixed by the board at an amount no more than fifty dollars (\$50).

(i) The fee to be paid for processing endorsement papers to other states shall be in an amount not less than twenty dollars (\$20) and may be fixed by the board at an amount no more than fifty dollars (\$50).

(j) The fee to be paid for post-licensure certification in blood withdrawal shall be in an amount not less than twenty dollars (\$20) and may be fixed by the board at an amount no more than fifty dollars (\$50).

(k) The biennial fee to be paid upon the filing of an application for renewal for a provider of an approved continuing education course or a course to meet the certification requirements for blood withdrawal shall be in an amount not less than one hundred fifty dollars (\$150), and may be fixed by the board at an amount no more than two hundred dollars (\$200).

(1/21/2009)